ASSEMBLY BILL   No. 848

Introduced by Assembly Member Patterson

February 21, 2013

An act to amend Sections 8700.5 ~~and~~, 8730, *and 8810* of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 848, as amended, Patterson. Adoption.

Existing law prescribes the procedures for the relinquishment of a child to the State Department of Social Services or a licensed adoption agency for adoption, and requires the relinquishment to be signed and acknowledged before specified persons. Existing law specifies certain time periods during which a birth parent may revoke a relinquishment for adoption, but also provides that a birth parent may elect to sign a waiver of the right to revoke relinquishment in the presence of specified persons. Existing law requires that if the waiver is signed in the presence of an authorized representative of a private licensed adoption agency, the relinquishment becomes final and irrevocable at the close of the next business day.

This bill would additionally provide that if the waiver is signed in the presence of an authorized representative of a private licensed adoption agency, the relinquishment becomes final and irrevocable at either the close of the next business day or at the close of the next business day after expiration of any holding period specified in writing, whichever is later. The bill would also provide that the waiver of the right to revoke relinquishment is invalid if the relinquishment is determined to be

invalid, is revoked during any holding period specified in writing, or is rescinded, as specified.

Under existing law, at the discretion of the department, county adoption agency, or a licensed adoption agency, an abbreviated assessment or home study of the prospective adoptive parent may be performed, as provided, if the prospective adoptive parent of a child is a foster parent with whom the child has lived for a minimum of 6 months or a relative caregiver who has had an ongoing and significant relationship with the child.

This bill would permit an abbreviated assessment or home study for a licensed or certified foster parent with whom the child has lived for a minimum of 6 months, an approved relative caregiver or nonrelated extended family member with whom the dependent child has had an ongoing and significant relationship, a court-appointed relative guardian of the child, as specified, or a prospective adoptive parent who has completed an agency-supervised adoption within the last 2 years. *The bill would require that the abbreviated assessment include a review by the department, county adoption agency, or licensed adoption agency of all previous guardianship investigation reports, home study assessments, and preplacement evaluations of each applicant, and would authorize the department or these adoption agencies to receive a copy of any of these reports upon a written request that is accompanied by a signed release from the applicant. The bill would state that these provisions do not apply to independent adoptions, and would authorize the department to promulgate regulations.*

Existing law requires prospective adoptive parents in an independent adoption to pay a fee to the department or delegated county adoption agency for the cost of investigating the adoption petition. Under existing law, the department or delegated adoption agency may reduce the fee to no less than $500 if the prospective adoptive parents are very low income according to the income limits published by the Department of Housing and Community Development.

This bill would instead authorize the department or delegated adoption agency to reduce the fee if the prospective adoptive parents are lower income according to those income limits.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

1   SECTION 1. Section 8700.5 of the Family Code is amended
2 to read:
3   8700.5. (a) A relinquishing birth parent may elect to sign a
4 waiver of the right to revoke relinquishment in the presence of any
5 of the following:
6   (1) A representative of the department or the delegated county
7 adoption agency, or any public adoption agency of another state.
8   (2) A judicial officer of a court of record, within or outside of
9 California, if the birth parent is represented by independent legal
10 counsel.
11   (3) An authorized representative of a licensed private adoption
12 agency within or outside of California, including a representative
13 of the adoption agency that witnessed or accepted the
14 relinquishment, if the birth parent is represented by independent
15 legal counsel.
16   (b) The waiver of the right to revoke relinquishment may not
17 be signed until the department, delegated county adoption agency,
18 or public adoption agency of another state has completed an
19 interview, unless the waiver is signed in the presence of a judicial
20 officer of a court of record of any state or an authorized
21 representative of a private adoption agency licensed within or
22 outside of California. If the waiver is signed in the presence of a
23 judicial officer, the interview and witnessing of the signing of the
24 waiver shall be conducted by the judicial officer. If the waiver is
25 signed in the presence of an authorized representative of a licensed
26 adoption agency, the interview shall be conducted by the
27 independent legal counsel for the birth parent or parents, who shall:
28   (1) Review the waiver with the birth parent or parents.
29   (2) Counsel the birth parent or parents about the nature of the
30 intended waiver.
31   (3) Sign and deliver to the birth parent or parents and the
32 licensed adoption agency a certificate in substantially the following
33 form:
34
35   "I, (name of attorney), have counseled my client, (name of
36 client), about the nature and legal effect of the waiver of the right
37 to revoke the relinquishment for adoption. I am so disassociated
38 from the interest of the prospective adoptive parent(s) and the

1 licensed adoption agency as to be in a position to advise my client
2 impartially and confidentially as to the consequences of the waiver.
3 My client is aware that California law provides an indeterminate
4 period, usually 2 to 10 business days, during which a birth parent
5 may revoke a relinquishment for adoption. On the basis of this
6 counsel, I conclude that it is the intent of my client to waive the
7 right to revoke, and to make a permanent and irrevocable
8 relinquishment for adoption. My client understands that upon
9 signing this waiver, he or she will not be able to regain custody of
10 the child unless the prospective adoptive parent or parents agree
11 to withdraw the petition for adoption or the court denies the
12 adoption petition."
13
14   (c) If the placing birth parent signs the waiver in front of a
15 judicial officer or the department, the relinquishment shall become
16 final and irrevocable at the time the waiver is signed. If the waiver
17 is signed in the presence of an authorized representative of a private
18 licensed adoption agency, the relinquishment shall become final
19 and irrevocable at the close of the next business day after the
20 relinquishment was signed, or at the close of the next business day
21 after expiration of any holding period specified in writing,
22 whichever is later.
23   (d) The licensed adoption agency shall submit the waiver and
24 certificate to the department with the relinquishment, unless the
25 relinquishment was submitted to the department before the waiver
26 was signed, in which case the waiver and certificate shall be
27 submitted to the department no later than two business days after
28 signing.
29   (e) A waiver executed pursuant to this section shall be void if
30 any of the following occur:
31   (1) The relinquishment is determined to be invalid.
32   (2) The relinquishment is revoked during any holding period
33 specified in writing.
34   (3) The relinquishment is rescinded pursuant to Section 8700.
35   (f) ~~Nothing in this section limits~~ *This section does not limit* the
36 birth parent's right to rescind the relinquishment pursuant to
37 Section 8700.
38   SEC. 2. Section 8730 of the Family Code is amended to read:
39   8730. (a) ~~Unless otherwise ordered by a court with jurisdiction~~
40 ~~over the child, the~~ *Subject to the requirements of subdivision (b),*

1 *the* department*, county adoption agency,* or licensed adoption
2 agency has the discretion to provide an abbreviated home study
3 assessment for any of the following:
4 (1) A licensed or certified foster parent with whom the child
5 has lived for a minimum of six months.
6 (2) An approved relative caregiver or nonrelated extended family
7 member with whom the child has had an ongoing and significant
8 relationship.
9 (3) A court-appointed relative guardian of the ~~child, if the~~
10 ~~guardian~~ *child who* has been investigated and approved pursuant
11 to the guardianship investigation process and has had physical
12 custody of the child for at least one year.
13 (4) A prospective adoptive parent who has completed an
14 agency-supervised adoption within the last two years.
15 (b) ~~Home~~ *Unless otherwise ordered by a court with jurisdiction*
16 *over the child, home* study assessments completed pursuant to
17 subdivision (a) shall ~~require only~~ *include, at minimum, all of* the
18 following:
19 (1) A criminal records check ~~of the applicant, as provided in~~
20 ~~subdivision (a) of Section 8712~~*, as required by all applicable state*
21 *and federal statutes and regulations*.
22 (2) A determination that the applicant has sufficient financial
23 stability to support the child and ensure that any adoption assistance
24 program payment or other government assistance to which the
25 child is entitled is used exclusively to meet the child's needs. In
26 making this determination, the experience of the applicant only
27 while the child was in his or her care shall be considered. For
28 purposes of this section, the applicant shall be required to provide
29 verification of employment records or income or both.
30 (3) A determination that the applicant has not abused or
31 neglected the child while the child has been in his or her care and
32 has fostered the healthy growth and development of the child. This
33 determination shall include a review of the disciplinary practices
34 of the applicant to ensure that the practices are age appropriate
35 and do not physically or emotionally endanger the child.
36 (4) A determination that the applicant is not likely to abuse or
37 neglect the child in the future, that the applicant can protect the
38 child, ensure necessary care and supervision, and foster the child's
39 healthy growth and development.

1   (5) A determination that the applicant can address ~~racial and~~
2 ~~cultural issues~~ that may affect the child's well-being, *including,*
3 *but not limited to, physical health, mental health, and educational*
4 *needs.*
5   (6) An interview with the applicant, an interview with each
6 individual residing in the home, and an interview with the child
7 to be adopted.
8   *(7) A review by the department, county adoption agency, or*
9 *licensed adoption agency of all previous guardianship investigation*
10 *reports, home study assessments, and preplacement evaluations*
11 *of each applicant. Notwithstanding any other law regarding the*
12 *confidential nature of these reports, upon the written request of*
13 *the department, county adoption agency, or licensed adoption*
14 *agency that is accompanied by a signed release from the applicant,*
15 *the department, county adoption agency, or licensed adoption*
16 *agency may receive a copy of any of these reports from a court,*
17 *investigating agency, or other person or entity in possession of*
18 *the report. The department, county adoption agency, or licensed*
19 *adoption agency shall document any attempts to obtain the report*
20 *and, if applicable, the reason the report is unavailable.*
21   *(c) The department may promulgate regulations as necessary*
22 *or appropriate to implement this section.*
23   *(d) This section does not apply to independent adoptions filed*
24 *pursuant to Chapter 3 (commencing with Section 8800).*
25   *SEC. 3. Section 8810 of the Family Code is amended to read:*
26   8810. (a) Except as otherwise provided in this section,
27 whenever a petition is filed under this chapter for the adoption of
28 a child, the petitioner shall pay a nonrefundable fee to the
29 department or to the delegated county adoption agency for the cost
30 of investigating the adoption petition. Fifty percent of the payment
31 shall be made to the department or delegated county adoption
32 agency at the time the adoption petition is filed, and the remaining
33 balance shall be paid no later than the date determined by the
34 department or the delegated county adoption agency in an amount
35 as follows:
36   (1) For petitions filed on and after October 1, 2008, four
37 thousand five hundred dollars ($4,500).
38   (2) For petitioners who have a valid preplacement evaluation
39 less than one year old pursuant to Section 8811.5, or a valid private
40 agency adoption home study less than two years old at the time of

1 filing a petition, one thousand five hundred fifty dollars ($1,550)
2 for a postplacement evaluation pursuant to Sections 8806 and 8807.
3 (b) Revenues produced by fees collected by the department
4 pursuant to subdivision (a) shall be used, when appropriated by
5 the Legislature, to fund only the direct costs associated with the
6 state program for independent adoptions. Revenues produced by
7 fees collected by the delegated county adoption agency pursuant
8 to subdivision (a) shall be used by the county to fund the county
9 program for independent adoptions.
10 (c) The department or delegated county adoption agency may
11 reduce the fee to no less than five hundred dollars ($500) when
12 the prospective adoptive parents are ~~very low~~ *lower* income,
13 according to the income limits published by the Department of
14 Housing and Community Development, and when making the
15 required payment would be detrimental to the welfare of an adopted
16 child. The department shall develop additional guidelines regarding
17 income and assets to determine the financial criteria for reduction
18 of the fee under this subdivision.
19 ~~(d) This section shall become operative on October 1, 2008.~~

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